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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte LI LI

Appeal 2016-003253
Application 10/947,337[1]
Technology Center 2100

Before MAHSHID D. SAADAT, JAMES W. DEJMEK, and SCOTT E. BAIN, *Administrative Patent Judges*.

DEJMEK, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134(a) from a Final Rejection of claims 1–5, 7–11, 15, 16, 19–26, 29, and 30. Claims 6, 12–14, 17, 18, 27, and 28 have been canceled. Br. 26–29. We have jurisdiction over the remaining pending claims under 35 U.S.C. § 6(b).

We affirm.

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[1] Appellant identifies MICROSOFT TECHNOLOGY LICENSING LLC as the real party in interest. Br. 3.

STATEMENT OF THE CASE

Introduction

Appellant's claimed invention is directed to "filtering and delivering locality-based advertisements or other media to Web or other networked sites which demonstrate a local nature of connection." Spec. ¶ 3. In a disclosed embodiment, content of a Web site may be examined for geographic indicators or identifiers (e.g., names of towns, local radio stations, or zip codes). Spec. ¶¶ 6, 12. When such indicators are found, transmissible advertisements or other corresponding content from a selectable database may be presented to the user. Spec. ¶ 6.

Claim 1 is representative of the subject matter on appeal and is reproduced below with the disputed limitations emphasized in *italics*:

> 1. A computer system having memories and processors configured for generating localized content for insertion into networked site content, comprising:
>
> *a parsing agent configured to capture a set of locality identifiers based on the networked site content*;
>
> *a database engine* configured to receive the set of locality identifiers from the parsing agent *and to establish a relationship between the set of locality identifiers and a geographic location associated with the networked site content*; and
>
> *a content server* configured to correlate the locality identifiers with localized transmissible content provided by subscribing entities having a relationship with a geographic region corresponding to the locality identifiers, to identify a media socket within the networked site content, and *to serve, via the media socket and without tracking user inputs, geographically localized transmissible content* based on the geographic location.

The Examiner's Rejections

1. Claims 1–5 and 7–10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wingard et al. (US 2003/0056218 A1; Mar. 20, 2003) ("Wingard"); Tanaka et al. (US 2003/0036955 A1; Feb. 20, 2003) ("Tanaka"); Liu et al. (US 2005/0154746 A1; July 14, 2005) ("Liu"); Mills (US 2001/0021935 A1; Sept. 13, 2001); and Gerken (US 7,376,714 B1; May 20, 2008). Final Act. 2–7.

2. Claims 11, 15, 16, 19, and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wingard, Nicholas et al. (US 2004/0083133 A1; Apr. 29, 2004) ("Nicholas"), Liu, and Mills. Final Act. 10–14.

3. Claims 21–26, 29, and 30 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wingard, Liu, Mills, Gerken, and Leonard (US 2002/0120629 A1; Aug. 29, 2002). Final Act. 7–10.

ANALYSIS[2]

Rejection of claims 1–5 and 7–10

Appellant presents various arguments regarding the teachings of the prior art relied on by the Examiner. Br. 8–15. We address Appellant's arguments *seriatim*.

Regarding Wingard, Appellant asserts Wingard teaches away from the Examiner's proposed combination of Wingard, Tanaka, Liu, Mills, and Gerken because Wingard filters based on zip code and configuration records

[2] Throughout this Decision, we have considered the Appeal Brief, filed March 31, 2015 ("Br."); the Examiner's Answer, mailed October 8, 2015 ("Ans."); and the Final Office Action, mailed July 7, 2014 ("Final Act."), from which this Appeal is taken.

rather than the claimed parsing of network site content. Br. 8–10. Further, Appellant contends Wingard teaches the use of a static head-end (i.e., pre-configured for a specific region) to deliver content in contrast to the claimed content server, which "is able to serve any region of the locality identifier parsed from the network site content by the parsing agent." Br. 9. Additionally, Appellant argues the filtering of Wingard does not correspond to the claimed parsing agent. Br. 9. Also, Appellant argues, if modified as proposed by the Examiner, Wingard would be rendered inoperable for its intended purpose because "Wingard does not insert localized content into the network site content that is viewed by the user." Br. 9. Appellant asserts Wingard teaches the use of a walled garden and synthetic channels, which are counter to the claimed use of a media socket within the network site content. Br. 9–10.

"A reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant." *In re Kubin*, 561 F.3d 1351, 1357 (Fed. Cir. 2009) (citation omitted).

Appellant points to no explicit teaching of Wingard or the other references that would discourage or divert a person of ordinary skill in the art from combining their teachings with those of Wingard. Particularly with regard to Wingard, Wingard enumerates exemplary techniques to localize the content prior to transmission including, without limitation, "filtering based on zip codes, geographic radius look-up, time zones, adding destination tags or other usable indicia to the content, . . . and other techniques." Wingard ¶ 26. Accordingly, we do not find that a skilled

artisan would be led away from combining the references as articulated by the Examiner. *See In re Fulton*, 391 F.3d 1195, 1201 (Fed. Cir. 2004) ("The prior art's mere disclosure of more than one alternative does not constitute a teaching away from any of these alternatives because such disclosure does not criticize, discredit, or otherwise discourage the solution claimed").

Additionally, we are not persuaded by Appellant's argument that Wingard's use of static head-ends are in contradistinction of the claimed content server. Contrary to Appellant's assertion, claim 1 does not require the content server to "serve any region of the locality identifier parsed from the network site content by the parsing agent" (*see* Br. 9). Rather, the content server must correlate locality identifiers with localized transmissible content and serve the geographically localized transmissible content. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. *In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993). The Examiner finds, and we agree, Wingard's teaching of selecting local content in a database and sending the content to its corresponding head-end for delivery to the user teaches the claimed limitation. *See* Final Act. 2–3 (citing Wingard ¶¶ 2, 25–26, and 42–43).

We are unpersuaded of Examiner error regarding Appellant's argument directed to distinguishing between filtering and parsing because, at least, it is not responsive to the rejection as articulated by the Examiner. The Examiner finds, and we agree, Liu teaches the claimed parsing agent. *See* Final Act. 3 (citing Liu ¶¶ 13, 15, 57, and 74).

Further, we do not agree with Appellant that the proposed modification to Wingard renders the walled garden and synthetic channels

inoperable for their intended purpose. Wingard teaches the use of a "walled garden" to allow users to access only certain content or restrict viewers from accidentally accessing content from geographically distant areas. Wingard ¶ 30. Contrary to Appellant's contention, this supports the Examiner's proposed modification to provide geographically localized transmissible content.

Regarding Liu, Appellant acknowledges Liu describes a parsing module for parsing webpages, but asserts Liu fails to teach capturing "a set of locality identifiers based on the networked site content." Br. 10.

In response, the Examiner finds, and we agree, Liu teaches parsing base content (i.e., content from a webpage) to extract locality identifiers (e.g., San Francisco). Ans. 4–5 (citing Liu ¶¶ 4, 74). The Examiner further correctly explains such a teaching is consistent with Appellant's Specification. Ans. 5 (citing Spec. ¶ 12 (extracting locality indicators including names of cities from Web site content)). Accordingly, we are unpersuaded of Examiner error.

Appellant also challenges the Examiner's finding regarding Mills. Br. 11–12. In particular, Appellant asserts "Mills does not describe a database engine that establishes a relationship between a geographic location of the network site and the parsed locality identifiers." Br. 11. Appellant continues and asserts "nothing in Mills explains that the network site has a geographic location that is used to establish a relationship with locality identifiers that are employed in advertisement selection for the network site content corresponding to the locality identifiers." Br. 11–12.

We are unpersuaded of Examiner error. As identified by the Examiner, Mills provides an example scenario of constructing a webpage

containing CCG-data (i.e., Classification data, Contact data, and Geographic location data). Final Act. 4 (citing Mills ¶¶ 50, 140). In the provided example, Mills describes an advertisement for a local electrician to be presented to users within a 30 kilometer radius from his business. Mills ¶ 140.

Appellant additionally argues Gerken teaches away from the claimed invention because Gerken discloses tracking users' inputs to derive location information and that this approach "is the exact opposite of what the claimed invention requires." Br. 14; *cf.* claim 1 ("to serve, via the media socket and without tracking user inputs, geographically localized transmissible content").

We disagree that Gerken teaches away from the claimed invention because, at least, it does not (and Appellant does not identify) discredit or disparage Appellant's claimed approach of not tracking user input. *See In re Fulton*, 391 F.3d at 1201. Further, Gerken discloses using information *other than tracking user input* to target ads. *See* Gerken, col. 1, ll. 46–52 (using derived user information including an approximate city of origin, IP addresses, and/or connection speeds); *see also* Ans. 6.

For the reasons discussed *supra*, we are unpersuaded of Examiner error. Accordingly, we sustain the Examiner's rejection of claim 1 and of claims 2–5 and 7–10, which depend therefrom and were not argued separately. *See* Br. 15.

Rejection of claims 11, 15, 16, 19, and 20

Independent claim 11 recites, in relevant part, "searching for localized transmissible advertisement content based on the set of locality identifiers

related to a geographic location associated with the Web page, wherein the Web page belongs to a television station or radio station."

Appellant presents similar arguments regarding Wingard, Liu, and Mills. *See* Br. 15–20. As discussed previously, we do not find these arguments persuasive of Examiner error.

Appellant argues Nicholas teaches placing localized content (e.g., a localized advertisement) on a website based on the location of the user's computer, rather than based on locality identifiers from the Web page. Br. 17–18. Appellant points to an example from Nicholas wherein a user, residing in an area of commercial influence (e.g., a specific zip code) would receive localized advertisements on a webpage, such as CNN.com. Br. 17–18 (citing Nicholas ¶ 53). Appellant contends Nicholas does not teach parsing the CNN.com website to obtain locality identifiers as required by the claim language. Br. 17.

Appellant's argument is not persuasive of Examiner error because it is not responsive to the rejection as articulated by the Examiner. Non-obviousness cannot be established by attacking references individually where, as here, the ground of unpatentability is based upon the teachings of a combination of references. *In re Keller*, 642 F.2d 413, 426 (CCPA 1981). Here, the Examiner relies on Wingard to teach extracting locality identifiers from a Web page. *See* Final Act. 10–11 (citing Wingard ¶¶ 25–26, 30–33, and 41–43). The Examiner relies on Nicholas "because it discloses providing content to a webpage based on geographic location and further discloses that it looks at information on television web pages (i.e. CNN) and further discloses serving local news to be displayed on the webpage." Final

Act. 11 (citing Nicholas ¶ 53); *see also* Ans. 7. Thus, the Examiner relies on the combined teachings of, *inter alia*, Wingard and Nicholas.

For the reasons discussed *supra*, we are unpersuaded of Examiner error. Accordingly, we sustain the Examiner's rejection of claim 11 and of claims 15, 16, 19, and 20, which depend therefrom and were not argued separately. *See* Br. 20.

Rejection of claims 21–26, 29, and 30

Appellant presents similar arguments regarding Wingard, Liu, Mills, and Gerken. *See* Br. 20–24. As discussed previously, we do not find these arguments persuasive of Examiner error.

In rejecting claim 21, the Examiner relies on Leonard "because it discloses delivering advertisements to a geo-subject webpage based on local, national and international entities." Final Act. 9 (citing Leonard, Abstract, ¶ 53); *see also* Ans. 7. Appellant argues Leonard teaches away from the claimed invention because Leonard requires user input. Br. 22–23 (citing Leonard ¶¶ 27, 42, 46, and 53).

We are unpersuaded of Examiner error because, at least, Appellant's argument is not responsive to the rejection as articulated by the Examiner. *See Keller*, 642 F.2d at 426. The Examiner relies on the combined teachings of Wingard, Liu, Mills, Gerken, and Leonard in rejecting claim 21 and relies, *inter alia*, on Wingard and Liu to teach parsing a website for locality identifiers without user input. *See* Final Act. 7–8. Additionally, we are unpersuaded that Leonard teaches away from the claimed invention because, at least, it does not (and Appellant does not identify) discredit or disparage Appellant's claimed approach of not using user input in determining local

identifiers from a Web page. *See In re Fulton*, 391 F.3d at 1201. Rather, the user input identified by Appellant relates to posting content and organizing the content within a database for later distribution to a user. *See* Leonard ¶¶ 48, 53, Fig. 5

For the reasons discussed *supra*, we are unpersuaded of Examiner error. Accordingly, we sustain the Examiner's rejection of claim 21 and of claims 22–26, 29 and 30, which depend therefrom and were not argued separately. *See* Br. 24.

DECISION

We affirm the Examiner's decision rejecting claims 1–5, 7–11, 15, 16, 19–26, 29, and 30.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 41.50(f).

AFFIRMED